

IN THE SENATE

SENATE BILL NO. 1255, As Amended

BY HEALTH AND WELFARE COMMITTEE

AN ACT

RELATING TO RECORDS EXEMPT FROM DISCLOSURE; AMENDING SECTION 9-340B, IDAHO CODE, TO PROVIDE THAT RECORDS OF INVESTIGATIONS PREPARED BY THE DEPARTMENT OF HEALTH AND WELFARE PURSUANT TO ITS STATUTORY RESPONSIBILITIES DEALING WITH THE PROTECTION OF CHILDREN, THE REHABILITATION OF YOUTH, ADOPTIONS AND THE COMMITMENT OF MENTALLY ILL PERSONS SHALL BE EXEMPT FROM DISCLOSURE AND TO PROVIDE THAT FOR REASONS OF HEALTH AND SAFETY, BEST INTERESTS OF THE CHILD OR PUBLIC INTEREST, THE DEPARTMENT OF HEALTH AND WELFARE MAY PROVIDE FOR THE DISCLOSURE OF RECORDS CONTAINED WITHIN A SPECIFIED EXEMPTION BY RULE; AND DECLARING AN EMERGENCY.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 9-340B, Idaho Code, be, and the same is hereby amended to read as follows:

9-340B. RECORDS EXEMPT FROM DISCLOSURE -- LAW ENFORCEMENT RECORDS, INVESTIGATORY RECORDS OF AGENCIES, EVACUATION AND EMERGENCY RESPONSE PLANS, WORKER'S COMPENSATION. The following records are exempt from disclosure:

(1) Investigatory records of a law enforcement agency, as defined in section 9-337(7), Idaho Code, under the conditions set forth in section 9-335, Idaho Code.

(2) Juvenile records of a person maintained pursuant to chapter 5, title 20, Idaho Code, except that facts contained in such records shall be furnished upon request in a manner determined by the court to persons and governmental and private agencies and institutions conducting pertinent research studies or having a legitimate interest in the protection, welfare and treatment of the juvenile who is thirteen (13) years of age or younger. If the juvenile is petitioned or charged with an offense which would be a criminal offense if committed by an adult, the name, offense of which the juvenile was petitioned or charged and disposition of the court shall be subject to disclosure as provided in section 20-525, Idaho Code. Additionally, facts contained in any records of a juvenile maintained under chapter 5, title 20, Idaho Code, shall be furnished upon request to any school district where the juvenile is enrolled or is seeking enrollment.

(3) Records of the custody review board of the Idaho department of juvenile corrections, including records containing the names, addresses and written statements of victims and family members of juveniles, shall be exempt from public disclosure pursuant to section 20-533A, Idaho Code.

(4) (a) The following records of the department of correction:

(i) Records of which the public interest in confidentiality, public safety, security and habilitation clearly outweighs the public interest in disclosure as identified pursuant to the authority of the Idaho board of correction under section 20-212, Idaho Code;

1 (ii) Records that contain any identifying information, or any in-
2 formation that would lead to the identification of any victims or
3 witnesses;

4 (iii) Records that reflect future transportation or movement of a
5 prisoner;

6 (iv) Records gathered during the course of the presentence inves-
7 tigation;

8 (v) Records of a prisoner, as defined in section 9-337(10), Idaho
9 Code, or probationer shall not be disclosed to any other prisoner
10 or probationer.

11 (b) Records of buildings, facilities, infrastructures and systems held
12 by or in the custody of any public agency only when the disclosure of
13 such information would jeopardize the safety of persons or the public
14 safety. Such records may include emergency evacuation, escape or other
15 emergency response plans, vulnerability assessments, operation and se-
16 curity manuals, plans, blueprints or security codes. For purposes of
17 this section "system" shall mean electrical, heating, ventilation, air
18 conditioning and telecommunication systems.

19 (c) Records of the commission of pardons and parole shall be exempt from
20 public disclosure pursuant to section 20-213A, Idaho Code, and section
21 20-223, Idaho Code. Records exempt from disclosure shall also include
22 those containing the names, addresses and written statements of vic-
23 tims.

24 (5) Voting records of the sexual offender classification board. The
25 written record of the vote to classify an offender as a violent sexual preda-
26 tor by each board member in each case reviewed by that board member shall be
27 exempt from disclosure to the public and shall be made available upon request
28 only to the governor, the chairman of the senate judiciary and rules commit-
29 tee, and the chairman of the house of representatives judiciary, rules and
30 administration committee, for all lawful purposes.

31 (6) Records of the sheriff or Idaho state police received or maintained
32 pursuant to sections 18-3302 and 18-3302H, Idaho Code, relating to an appli-
33 cant or licensee.

34 (7) Records of investigations prepared by the department of health and
35 welfare pursuant to its statutory responsibilities dealing with the protec-
36 tion of children, the rehabilitation of youth, adoptions and the commitment
37 of mentally ill persons. For reasons of health and safety, best interests of
38 the child or public interest, the department of health and welfare may pro-
39 vide for the disclosure of records contained within this exemption by rule.

40 (8) Records including, but not limited to, investigative reports,
41 resulting from investigations conducted into complaints of discrimination
42 made to the Idaho human rights commission unless the public interest in
43 allowing inspection and copying of such records outweighs the legitimate
44 public or private interest in maintaining confidentiality of such records.
45 A person may inspect and copy documents from an investigative file to which
46 he or she is a named party if such documents are not otherwise prohibited from
47 disclosure by federal law or regulation or state law. The confidentiality of
48 this subsection will no longer apply to any record used in any judicial pro-
49 ceeding brought by a named party to the complaint or investigation, or by the
50 Idaho human rights commission, relating to the complaint of discrimination.

1 (9) Records containing information obtained by the manager of the Idaho
2 state insurance fund pursuant to chapter 9, title 72, Idaho Code, from or on
3 behalf of employers or employees contained in underwriting and claims for
4 benefits files.

5 (10) The worker's compensation records of the Idaho industrial commis-
6 sion provided that the industrial commission shall make such records avail-
7 able:

8 (a) To the parties in any worker's compensation claim and to the indus-
9 trial special indemnity fund of the state of Idaho; or

10 (b) To employers and prospective employers subject to the provisions of
11 the Americans with disabilities act, 42 U.S.C. 12112, or other statu-
12 tory limitations, who certify that the information is being requested
13 with respect to a worker to whom the employer has extended an offer of
14 employment and will be used in accordance with the provisions of the
15 Americans with disabilities act, 42 U.S.C. 12112, or other statutory
16 limitations; or

17 (c) To employers and prospective employers not subject to the provi-
18 sions of the Americans with disabilities act, 42 U.S.C. 12112, or other
19 statutory limitations, provided the employer presents a written autho-
20 rization from the person to whom the records pertain; or

21 (d) To others who demonstrate that the public interest in allowing in-
22 spection and copying of such records outweighs the public or private in-
23 terest in maintaining the confidentiality of such records, as deter-
24 mined by a civil court of competent jurisdiction; or

25 (e) Although a claimant's records maintained by the industrial commis-
26 sion, including medical and rehabilitation records, are otherwise ex-
27 empt from public disclosure, the quoting or discussing of medical or re-
28 habilitation records contained in the industrial commission's records
29 during a hearing for compensation or in a written decision issued by the
30 industrial commission shall be permitted; provided further, the true
31 identification of the parties shall not be exempt from public disclo-
32 sure in any written decision issued and released to the public by the in-
33 dustrial commission.

34 (11) Records of investigations compiled by the commission on aging in-
35 volving vulnerable adults, as defined in section 18-1505, Idaho Code, al-
36 leged to be abused, neglected or exploited.

37 (12) Criminal history records and fingerprints, as defined by section
38 67-3001, Idaho Code, and compiled by the Idaho state police. Such records
39 shall be released only in accordance with chapter 30, title 67, Idaho Code.

40 (13) Records furnished or obtained pursuant to section 41-1019, Idaho
41 Code, regarding termination of an appointment, employment, contract or
42 other insurance business relationship between an insurer and a producer.

43 (14) Records of a prisoner or former prisoner in the custody of any state
44 or local correctional facility, when the request is made by another prisoner
45 in the custody of any state or local correctional facility.

46 (15) Except as provided in section 72-1007, Idaho Code, records of the
47 Idaho industrial commission relating to compensation for crime victims un-
48 der chapter 10, title 72, Idaho Code.

49 (16) Records or information identifying a complainant maintained by the
50 department of health and welfare pursuant to section 39-3556, Idaho Code,

1 relating to certified family homes, unless the complainant consents in writ-
2 ing to the disclosure or the disclosure of the complainant's identity is re-
3 quired in any administrative or judicial proceeding.

4 SECTION 2. An emergency existing therefor, which emergency is hereby
5 declared to exist, this act shall be in full force and effect on and after its
6 passage and approval.